

## **REMARKS**

Reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

### **Summary of the Response**

By this amendment, claims 3, 5, 7, 10, 17, 27, and 28 have been amended. Claims 29-78 have been withdrawn by a previous election. Thus, claims 1-28 are currently pending in the application and are subject to examination.

In the Office Action dated June 7, 2006, Claim 7 is rejected under 35 U.S.C. § 112, first paragraph. Claims 3, 5, 10, 17, and 19-28 are rejected under 35 U.S.C. § 112, second paragraph. Claims 1-3, 7, 10, 13, 18-22, 25, and 27 are rejected under 35 U.S.C. § 102(b) as being anticipated by Fernandez (U.S. Patent No. 4,855,725). Claims 4-5 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fernandez in view of Official Notice. Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Fernandez in view of Kigami, et al. (JP 04-032497, hereinafter "Kigami"). Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Fernandez in view of Payton (U.S. Patent No. 5,790,935). Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Fernandez in view of Himbeault, et al. (U.S. 6,556,561, hereinafter "Himbeault"). Claims 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fernandez in view of Kawakura, et al. (U.S. Patent No. 5,903,901, hereinafter "Kawakura"), and Claims 14-17, 24, 26, and 28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fernandez in view of Payton.

It is noted that claims 3, 5, 10, 17, 27, and 28 have been amended. To the extent the rejections remain applicable to the claims currently pending, the Applicants hereby traverse the rejections, as follows.

### **Rejections Under 35 U.S.C. § 112**

Claim 7 is rejected under 35 U.S.C. § 112, first paragraph. Claim 7 has been amended responsive to this rejection. Support for this amendment can be found, for example, at page 78, line 26, to page 79, line 4. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 3, 5, 10, 17, and 19-28 are rejected under 35 U.S.C. § 112, second paragraph. Claims 3, 5, 10, 17, 27, and 28 have been amended responsive to this rejection. The Applicants respectfully traverse this rejection in part.

The Applicants note that explicit antecedent basis for a term is not always required. If the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite. See M.P.E.P. § 2173.05(e), citing *Ex parte Porter*, 25 U.S.P.Q.2d 1144, 1145 (Bd. Pat. App. & Inter. 1992).

In paragraph 7(g), the Office Action takes the position that there is insufficient basis for the limitation "the system" in line 1 of claims 19-28. The Applicants submit that each use of the term "the system" is followed by a reference to an earlier claim. Under M.P.E.P. § 2173.05(f), a claim which makes reference to a preceding claim to define a limitation is an acceptable claim construction, which should not necessarily be rejected as indefinite unless the reference results in confusion. Accordingly, the Applicants

submit that the references to specific prior claims clearly define the scope of claims 19-28, and do not result in confusion.

In paragraph 7(h), the Office Action takes the position that "the queue section" recited on lines 3-4 of claim 23 lacks antecedent basis. However, claim 18, from which claim 23 depends, recites "a queue section that stores the packaged electronic books." Accordingly, the Applicants submit that claim 23 has proper antecedent basis and is not indefinite.

In paragraph 7(i), the Office Action takes the position that "the multiple electronic book orders" recited on line 3 of claim 25 lacks sufficient antecedent basis. However, line 2 of claim 25 recites "when multiple electronic book orders are for a same electronic book." Accordingly, the Applicants submit that claim 25 has proper antecedent basis and is not indefinite.

In paragraph 7(k), the Office Action takes the position that "the second sections" recited on line 1 of claim 28 lacks sufficient antecedent basis. However, claim 27, from which claim 28 depends, recites "wherein a second section queue includes second sections." Accordingly, the Applicants submit that claim 28, as amended, has proper antecedent basis and is not indefinite.

Reconsideration and withdrawal of the rejection is respectfully requested.

#### **Claims 1 and 18 Recite Patentable Subject Matter**

Regarding claim 1, the Applicants respectfully submit that Fernandez fails to disclose or suggest at least the combination of "a queuing processor coupled to the

main memory that receives electronic book orders and **determines a queue location for an ordered electronic book,**” and “second queues that temporarily store second sections of electronic books,” as recited in claim 1. (Emphasis added).

Regarding claim 18, the Applicants respectfully submit that Fernandez fails to disclose or suggest at least the combination of “a processor section that processes electronic book orders and that packages electronic books for delivery,” or “a queue server that empties the queue section based on a queue priority model.”

For at least these reasons, the Applicants respectfully submit that claims 12-14, as amended, are allowable over the cited art.

#### **Claims 2-17 and 19-28 Recite Patentable Subject Matter**

Regarding claims 2-17 and 19-28, the Applicants respectfully submit that each of these claims depends from one of allowable claims 1 and 18, and is therefore allowable for at least the same reasons that claims 1 and 18 are allowable.

#### **Conclusion**

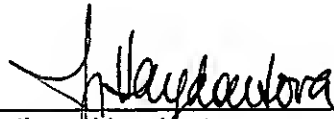
For all of the above reasons, it is respectfully submitted that the claims now pending patentably distinguish the present invention from the cited references. Accordingly, reconsideration and withdrawal of the outstanding rejections and an issuance of a Notice of Allowance are earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is encouraged to telephone the undersigned representative at the number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petitions for an appropriate extension of time. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300, referring to client-matter 026880-00004.

Respectfully submitted,

Arent Fox PLLC

A handwritten signature in black ink, appearing to read 'Juliana Haydoutova', is written over a horizontal line.

Juliana Haydoutova  
Attorney for Applicants  
Registration No. 43,313

**Customer No. 004372**

ARENT FOX PLLC

1050 Connecticut Avenue, N.W., Suite 400

Washington, D.C. 20036-5339

Tel: (202) 857-6000

Fax: (202) 857-6395

WLC/JH/SCO